

Appln. No. 10/799,138.
Amdt. dated April 26, 2005
Reply to Office action dated January 7, 2005

REMARKS/ARGUMENTS

The rejection of claims 1 and 4 as under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which applicant regards as his invention is traversed for the reasons to follow. In particular, independent claim 1 has been amended to provide a proper antecedent basis for the terms "inner surface" and "vertical portion". Additionally, the phrase "horizontal portion" has been amended to --horizontal edge portion-- to clarify the claim terminology.

Claim 4 has been amended and claims 2 and 3 canceled.

The rejection of claims 1 and 4 under 35 U.S.C.102(b) as being anticipated by Stolpe or Wilson is traversed for the reasons to follow.

Stolpe appears to be directed to a jar and bottle opener that twists, or screws, off the cap or cover of the jar and bottle. Further, the Stolpe opener appears to be free standing and not secured to a surface. Wilson is similar to Stolpe in that the disclosed device is used to twist or screw off a bottle cap; in addition the devices of Stolpe and Wilson are relatively complex compared to the simplicity of applicant's device.

The device as set forth in claims 1 and 4 is an easy to use, compact mechanism specifically designed to facilitate the removal of non-twist-off (crimped-on) bottle caps from their containers. Claim 1 has been amended to clearly set forth the feature of a fixed structure which enables a crimped bottle cap to be removed using a horizontal edge

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portion which engages the bottle cap, a feature not required (and thus not shown) by either the Stople or Wilson references.

It is clear under the patent law that in order to reject claims as being anticipated by a prior art reference under 35 U.S.C. § 102, every element and limitation of the claimed invention must be found in a single prior art reference (see Brown v. 3M, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001)). Since the references do not show, inter alia, the bottle cap removing horizontal edge portion, this rejection is thus inapplicable to the claims.

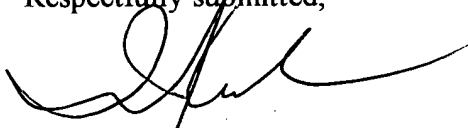
The rejection of claims 1 and 4 as being unpatentable under 35 U.S.C.103(a) over Woodbury is traversed for the reasons to follow. Woodbury discloses a tool for removing various bottle caps using a twisting type of motion. In contradistinction thereto, applicant claims an opener that removes a crimped-on bottle cap from their containers using a horizontal edge portion, the opener being secured to the underside of a horizontal surface, features not shown in Woodbury. It is thus believed it would not be obvious to one skilled in the art to use the teachings of Woodbury to make the claimed invention without the use of hindsight.

The Hawley et al, Miller, Reyes, Welford et al, Braukmann, Funka, Hoffberger, Zorzi, Hogan et al, Huff, Smith, Porter, Lurcott and Eames references have been reviewed but it is believed that applicant's claimed invention patentably distinguishes thereover.

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Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Irving Kesohner', written over the typed name.

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